

HOUSE BILL 456

By Littleton

AN ACT to amend Tennessee Code Annotated, Title 5;
Title 6; Title 7 and Title 66, relative to the display
of flags by property owners.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 66, Chapter 27, is amended by adding
the following language as a new part:

66-27-601. As used in this part:

(1) "Dedictory instrument":

(A) Means each document governing the establishment, maintenance, or
operation of a residential subdivision, planned unit development, condominium or
townhouse regime, or any similar planned development; and

(B) Includes a declaration or similar instrument subjecting real property
to:

(i) Restrictive covenants, bylaws, or similar instruments governing
the administration or operation of a homeowners' association;

(ii) Properly adopted rules and regulations of a homeowners'
association; or

(iii) All lawful amendments to the covenants, bylaws, instruments,
rules, or regulations of a homeowners' association;

(2) "Homeowners' association" means an incorporated or unincorporated
association owned by or whose members consist primarily of the owners of the property
covered by the dedicatory instrument and through which the owners, or the board of
directors or similar governing body, manage or regulate the residential subdivision,

planned unit development, condominium or townhouse regime, or similar planned development;

(3) "Restrictive covenant" means any covenant, condition, or restriction contained in a dedicatory instrument, whether mandatory, prohibitive, permissive, or administrative; and

(4) "Veteran" means a person who served in the armed forces, or a reserve or Tennessee National Guard unit, and who was discharged or released under conditions other than dishonorable.

66-27-602.

(a) Except as provided in subsection (b), no homeowners' association shall adopt or enforce a dedicatory instrument provision that prohibits, restricts, or has the effect of prohibiting or restricting a property owner who is a veteran from displaying the flag of the United States of America or an official or replica flag of any branch of the United States armed forces, including the POW-MIA flag, or both, on the property owner's property.

(b) A homeowners' association may adopt or enforce reasonable dedicatory instrument provisions:

(1) That require:

(A) The flag of the United States of America be displayed in accordance with 4 U.S.C. §§ 5-10;

(B) The display of a flag, or the location and construction of the supporting flagpole, to comply with applicable zoning ordinances, easements, and setbacks of record; or

(C) A displayed flag and the flagpole on which it is flown to be maintained in good condition and that any deteriorated flag or deteriorated or structurally unsafe flagpole be repaired, replaced, or removed;

(2) That regulate the size and location of flagpoles on which flags are displayed, except that these provisions shall not prevent the installation of at least one (1) flagpole per property that:

(A) Is not more than twenty feet (20') in height and is located in the front yard of the property; or

(B) Is attached to any portion of a residential structure owned by the property owner and not maintained by the homeowners' association;

(3) That govern the size of a displayed flag, except that these provisions shall not prevent the display of a standard size flag;

(4) That regulate the size, location, and intensity of any lights used to illuminate a displayed flag; and

(5) That prohibit a property owner from locating a displayed flag or flagpole on property that is:

(A) Owned or maintained by the homeowners' association; or

(B) Owned in common by the members of the homeowners' association.

(c) A property owner who complies with dedicatory instrument provisions as described in subsection (b) may install a flagpole in accordance with subdivision (b)(2)(A) or (b)(2)(B).

66-27-603.

This part shall apply to dedicatory instruments:

(1) Created on or after the effective date of this act; and

(2) Amended on or after the effective date of this act.

SECTION 2. If any provision of this act or its application to any person or circumstance is held invalid, then the invalidity shall not affect other provisions or applications of the act that

can be given effect without the invalid provision or application, and to that end the provisions of this act shall be severable.

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.